IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8024 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MATHUSHRI RADHAMA EDUCATION TRUST

Versus

STATE OF GUJARAT

Appearance:

MR MK VAKHARIA for Petitioner

MR KT DAVE, AGP for Respondent No. 1

MR AD OZA for Respondent No. 2

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 28/09/2000

ORAL JUDGEMENT

Rule. With the consent of the learned counsel for the parties, the petition is taken up for final disposal today.

2. In this petition under Article 226 of the Constitution, what is challenged by the petitioner-trust

is the decision of the Gujarat Secondary Education Board, as confirmed by the State Government in appeal, rejecting the petitioner's application for registration of a Girls' High School on the ground that granting the registration would result into unhealthy competition with other existing schools.

3. The petitioner's case is that the petitioner-trust wants to start an exclusively Girls' High Court in the name and style of Mathushri Radhama Girls High School for which the petitioner has already taken suitable premises on rent and has made paraphernalia like benches, desks, blackboard etc. The Panchayat has also granted 14000 sq.ft. of land to the petitioner-trust in village Bhatia and the plans are also prepared for the school building to which the petitioner will shift the school from the rented premises. It is submitted that the application was made in November, 1997 and all along the petitioner represented that the petitioner wants to start an exclusive Girls' High School but the authorities have rejected the application only on the ground that there are two other existing High Schools where the girls can be admitted.

It is submitted that in rural areas the parents of the girls do not like sending their daughters to a co-education school and they prefer to send their daughters to an exclusively Girls' High School. Hence, all those parents who want to send their daughters to an exclusively Girls' High School have been looking forward to opening of such an exclusively Girls' High School, but the respondents have failed to take this relevant fact into consideration.

4. When the Court found that prima facie there was considerable substance in the submission made on behalf of the petitioner, notice was issued.

5. Mr KT Dave, learned AGP appears for respondent No. 1 and Mr AD Oza appears for the Gujarat Secondary Education Board. Mr Dave states that in view of the statements made in the petition and the above submission, the State Government will reconsider the matter in the correct perspective considering the fact that the petitioner-trust intends to start an exclusively Girls' High School which may be preferred by the people in the rural area for sending their daughters, but even then the State Government will have to ascertain whether the petitioner-trust fulfills the other conditions.

6. In view of the above, the impugned order dated 20.8.1999 passed by the State Government (Annexure "E" to the petition) is quashed and set aside and the State Government is directed to rehear the appeal of the petitioner-trust for granting registration to start an exclusively Girls' High School in village Bhatia in Jamkalyanpur Taluka of Jamnagar District, without being influenced by any possibility of competition with the other co-educational High Schools in the area.

7. Rule is made absolute. There shall be no order as to costs.

The Court would like to place on record the constructive and positive stand adopted by the State Government and learned AGP Mr KT Dave.

September 28, 2000 (M.S. Shah, J.)

sundar/-